IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 73 OF 2007

Bharat Namdeo Nigade..... ..... Petitioner.
Versus
Inspector General & Controller of
Stamps & Others.... ... ... Respondents.

Mr.Bharat N. Nigade, Petitioner-in-person.
Mr. S.R.Nargolkar, AGP for the State.

CORAM : SWATANTER KUMAR, C.J. &
DR.D.Y.CHANDRACHUD, J.

DATED : 20TH SEPTEMBER, 2007.

P.C.:

The petitioner, who himself is a stamp vendor, has filed this writ petition under Article 226 of the Constitution of India, claiming to be a public interest litigation with the prayers that the Court should set aside and quash the resolution dated 17th July, 2002 and further direct the Government to clear the stock of Special Adhesive Stamps of the value of Rs.500/-, Rs.1,000/- and Rs.5,000/- by selling them. The petitioner further prays for setting aside the resolution of the Government dated 26th March, 2004 and direction to the State to take steps for assigning of franking work to the Sub Registrar’s Office on zero commission basis.

2. In reply affidavit filed on behalf of the State, a specific averment has been made that this is not a public interest litigation but primarily a private interest litigation. While justifying its policy decision, the Government has stated that a policy decision has been taken to completely do away with the adhesive stamp system except below Rs.100/- denomination, as higher value is being regulated through the various postal departments and Nationalised Banks where franking shall be conducted. It will be useful to refer to the following paragraph of the affidavit filed in reply:

> "9. I further say and submit that the petitioner has mixed up two independent issues. One of the said issues is the usage and printing of special adhesive stamps of the denomination of Rs.500/-, Rs.1000/- and Rs.5000/- and the other issue is in respect of the introduction of the system of franking by the postal department and/or financial institutions and banks. As stated hereinabove, the special adhesive stamps are capable of mis-utilization and forgery, as the same don't bear any distinctive number or identification marks, etc. The special adhesive stamps, which are in stock, have only face value that is printed on the same. they have no intrinsic value, and as such, it cannot be said that the stock are worth Rs.108 crores, as alleged by the petitioner. It is only the authority of the State which lends value to the piece of paper which may be called as a 'stamp'. Without such authority, the paper is useless and does not have any value worth mentioning. The reference to the Ready Reckoner that is the statement of annual rates of properties prepared as per the Bombay Stamp (Determination of True Market Value of Properties) Rules, 1995 is totally irrelevant in the facts of

> the present case. The system of usage of franking machines by responsible agencies such as Nationalised Bank, Postal Departments, etc. is a policy decision taken by the State in the backdrop of the stamp scam which was unearthed in the State. The petitioner cannot question the wisdom of the Legislature in the introduction of a financial policy. Decision has been taken after consultation with experts in the field and in the best interest of the citizens. One of the features of the earlier distribution system was that the stamp papers were not easily and readily available. However, the State has made arrangements for the proper availability and distribution of the stamp papers by introduction of the new system. The Stamp Office has appointed licensed stamp vendors at all places including the vending office in the High Court and at the City Civil Court, Small causes Court and other Courts. Several branches of the Nationalised Banks such as Bank of Maharashtra and other Financial Institutions have made arrangements for franking of documents for the value of stamps. In such circumstances, the reliability of the stamp vending and the ready availability of stamps has increased. Consequently, the chances of any perpetration of scam / mis-utilization of the process is reduced. With this objective in mind, the Government has introduced the new system and the Government is in the process of updating and innovating the system to keep in step with the modern developments. Consequently, the petition which is actuated with the personal benefits of the petitioner deserves to be dismissed in view of the larger public interest."

3. There had been scam in relation to adhesive stamps of higher denomination and which matter, till today, is pending investigation and / or trial. In the backdrop of this circumstances, if the State Government has taken a policy decision and passed Resolutions dated 17th July, 2002 and 26th March, 2004, the Court can hardly quash those resolutions on the ground of change of policy. The matters of policy primarily fall in the

domain of the State. The scope of judicial review of policy decision of the State is very limited. Unless and until such policy decision was opposed to statutory provisions or ex facie arbitrary or discriminatory so as to seek the judicial intervention of the Court and the matter which would not serve the public purpose and would be against the larger public interest, the Court would look into such matters within the narrow scope of its jurisdiction. The present case, certainly does not fall in any of these categories. The decision of the Government in fact appears to be in larger public interest and this was better regulating the said revenue received from sale of the stamp papers, etc.

4. Learned Counsel for the State has relied upon the various Judgments of the Supreme Court in the affidavit in reply in support of their contentions. We may also refer to the Division Bench Judgement of this Court in **Writ Petition No. 580 of 2007 (Subhash R. Acharya v/s State of Maharashtra) dated 16th August, 2007,** in this regard, where the Court has taken a view that the policy matters of the State are beyond the scope of judicial review.

5. The petitioner, who appears in person, has not brought to our notice any law or statutory provision

which has been violated by the policy enacted by the State. Merely because some loss will be caused to the stamp vendors or affect the stamp vendors for non-sale of adhesive stamps of the value of Rs.500/- and above, per se, would be no ground for us to interfere under Article 14 of the Constitution of India. On the contrary, the policy decision, in our opinion, would serve the greater public interest, may be at the cost of the limited private interest.

6. For the reasons aforestated, the writ petition is dismissed. Parties are left to bear their own costs.

Sd/-

CHIEF JUSTICE

Sd/-

DR.D.Y.CHANDRACHUD, J.